

PJS:MJB:all

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NORMAN N. SHELTON,	:	CIVIL NO. 4:CV-11-0368
Plaintiff	:	(Complaint Filed 02/25/11)
	:	
v.	:	(Nealon, J.)
	:	
BLEDSON, et al.,	:	
Defendants	:	Filed Electronically

SECOND MOTION FOR ENLARGEMENT OF TIME

Defendants, by and through their counsel, move the Court for a second enlargement of time, pursuant to Fed. R. Civ. P. 6(b), in which to file a brief in support of Defendants' Motion for Summary Judgment. In support thereof, Defendants aver the following:

1. This is a Bivens¹ action brought by Norman N. Shelton, a federal prisoner incarcerated at the United States Penitentiary in Lewisburg, Pennsylvania ("USP Lewisburg").
2. Shelton filed his original complaint on February 25, 2011, and supplemented his complaint on March 22, 2011.

¹ Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

3. On June 20, 2011, Defendants moved to dismiss Shelton's supplemented complaint and for entry of summary judgment in their favor.
4. On June 30, 2011, the Court conditionally granted a motion by Shelton to amend his complaint and directed Shelton to file an amended complaint which is complete in all respects, thereby rendering Defendants' dispositive motion moot.
5. Shelton filed two amended complaints and a supporting brief on July 11, 2011.
6. On July 21, 2011, the original defendants moved the Court for an enlargement of time to respond to the amended complaint until 60 days after service of the amended complaint upon the newly-named defendants.
7. On June 20, 2011, the original defendants moved the Court for a protective order to stay responding to all of Shelton's motions for temporary restraining orders and/or preliminary injunctions until 14 days following resolution of their then-pending dispositive motion.
8. When the Court granted Shelton leave to amend his complaint, and his amended complaint was filed on July 11, 2011, however, the original defendants' dispositive motion was rendered moot.

9. On August 10, 2011, upon review of Shelton's amended complaints, the Court ordered the following:
- (a) Pages 1 through 4 of Shelton's first amended complaint (Doc. No. 58) shall constitute the amended complaint of record;
 - (b) The remaining 16 pages of the first amended complaint were stricken;
 - (c) All defendants were terminated, with the exception of original Defendants Heath and Whittaker, and new Defendants Raup, Galletta and Potter;
 - (d) Service of the remaining portion of Shelton's first amended complaint upon the five remaining defendants was directed;
 - (e) Shelton's second amended complaint was stricken;
 - (f) The original defendants' motion for an enlargement of time until 60 days following service of the amended complaint was granted;
 - (g) Defendants' Motion to Dismiss and for Summary Judgment and Defendants' motion to stay responding to Shelton's requests for temporary restraining orders or preliminary injunctions were dismissed as moot;
 - (h) Defendants were ordered to respond to Plaintiff's motions for injunctive relief (Doc. Nos. 16 and 20) on or before August 30, 2011; and
 - (i) Shelton's motions for default judgment and for subpoena were denied.
10. Shelton's Amended Complaint was served on the individual defendants on August 15, 2011.

11. Shelton filed a motion for reconsideration of the August 10, 2011 Order on August 22, 2011.
12. Shelton retained the services of a Philadelphia law firm, which filed a separate complaint on his behalf on August 30, 2011. See Shelton v. Kane, M.D. Pa. Civ. No. 3:CV-11-1618.
13. This new complaint contains claims related to Shelton's claims in the instant case, including claims previously dismissed by this Court, but also contains new claims and class action claims.
14. Shelton's counsel in Shelton v. Kane first contacted undersigned counsel on August 31, 2011, and advised that the new complaint was filed as a related case to the instant case. He further advised that Shelton was considering voluntarily dismissing the instant case and would notify undersigned counsel of their final intentions as soon as possible.
15. On October 17, 2011, the remaining defendants filed a motion for summary judgment in accordance with the Court's August 10, 2011 Order.
16. Prior to October 31, 2011, undersigned counsel again spoke with Shelton's attorney in Shelton v. Kane, who advised undersigned counsel that he still anticipated that a stipulation of voluntary dismissal would be filed in the

instant case; however, he was having problems communicating with Shelton.

17. In light of counsel's representations, Defendants filed a motion for an enlargement of time until November 14, 2011, in which to file a brief in support of their dispositive motion.
18. On the date of this filing, undersigned counsel spoke again with Shelton's counsel in the related case, and again was advised that Shelton was currently reviewing a Stipulation of Voluntarily Dismissal of this case.
19. If Shelton voluntarily dismisses the instant action as anticipated, Defendants' dispositive motion will become moot, and the Court will close this case.
20. In order to allow for Shelton to review the Stipulation of Voluntary Dismissal, and to conserve the resources of the Court and of the United States, Defendants seek a second enlargement of time until December 15, 2011 to file a brief in support of their dispositive motion.
21. Shelton is not represented in the instant matter, and therefore, his concurrence with this motion was not sought.

22. Shelton will not be prejudiced by this enlargement of time.

WHEREFORE, Defendants move the Court for an enlargement of time until December 15, 2011, to file a brief in support of Defendants' Motion for Summary Judgment.

Respectfully submitted,

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Date: November 14, 2011

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Plaintiff	:	
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That on November 14, 2011, she served a copy of the attached

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

ADDRESSEE:

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Reg. No. 45969-066
USP Lewisburg
PO Box 1000
Lewisburg, PA 17837

/s Anita L. Lightner
Paralegal Specialist